

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-213257**DATE:** November 29, 1983**MATTER OF:** Melrose Waterproofing Company.**DIGEST:**

Cancellation of IFB and resolicitation is not recommended since there is no evidence of a conscious or deliberate attempt to exclude protester from bidding.

Melrose Waterproofing Company (Melrose) protests that invitation for bids (IFB) No. 646-40-83 issued by the Veterans Administration (VA) for tuckpointing buildings Nos. 1 and 7 at the VA Medical Center, Pittsburgh, Pennsylvania, should be rebid.

The basis for Melrose's protest is that the contracting officer misled Melrose into submitting a late bid.

We deny the protest summarily without obtaining an agency report because it is clear from Melrose's initial submission that the protest is without legal merit. Granite Diagnostics, Inc., B-211711, June 7, 1983, 83-1 CPD 620.

Cancellation of a solicitation is not required unless it is shown that there was a conscious or deliberate attempt to preclude the protester from competing. Pioneer Recovery Systems, Inc., B-201738, May 26, 1981, 81-1 CPD 408. There is no evidence of that here.

The late bid in this case resulted from the fact that on August 29, 1983, the protester called the contracting office to inquire as to the proper mailing address for the bid to be opened "tomorrow." There were two IFB's which had bid opening dates previously scheduled for August 30, 1983. However, the bid opening dates for both of these IFB's had been extended by telegram of August 29, 1983, to September 13, 1983. Since the protester inquired about where to mail a bid that was to be opened "tomorrow," the protester was told that the bid opening date had been rescheduled for September 13, 1983. Actually, the protester's inquiry was in regard to the immediate IFB which had a scheduled bid opening date of August 31, 1983, that remained

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unchanged. In the circumstances, the contracting office's reply was the result of a misunderstanding created by the manner in which Melrose made its inquiry rather than any deliberate attempt by the contracting office to exclude Melrose from bidding.

Therefore, we find no basis to recommend cancellation of the IFB and resolicitation.

for Milton J. Aoulan
Comptroller General
of the United States